

EPA Region 10 Water Program Dialogue Annotated Agenda

NPDES Pre-Meeting

Seattle, Washington

Wednesday, April 10, 2013, **8:00 am – 9:30 am** PDT in Multnomah Conference Room / HQCall-in **11:00 am – 12:30 pm** EDT in EPA East 7345

(b) (6)

TIME (EDT)	TIME (PDT)	TOPIC (* denotes topics also on OW Plenary Agenda)
11 AM – 11:05 AM	8:00 AM - 8:05 AM	Welcome and Introductions
11:05 AM – 11:15 AM	8:05 AM- 8:15 AM	Region 10 Overview: Organization, Workplan, and Priorities
11:15 AM – 11:45 AM	8:15 AM- 8:45 AM	Action Items, Permit Backlog, Priority Permits
11:45 AM – 12:15 PM	8:45 AM – 9:15 AM	State Program Oversight: PQR Transition and Integration, Real-time reviews, MOA revision project
12:15 PM – 12:25 PM	9:15 AM – 9:25 AM	Oregon Dept. of Agriculture CAFO issues
12:25 PM – 12:30 PM	9:25 AM – 9:30 AM	Break
12:30 PM – 12:40 PM	9:30 AM – 9:40 AM	Arctic Oil and Gas Exploration Permits*
12:40 PM – 1:10 PM	9:40 AM – 10:10 AM	Incorporating numeric nutrient limits into permits: scope of Region 10 state policies, particular industries/sources of concern.*
1:10 PM – 1:20 PM	10:10 AM – 10:20 AM	Central repository for regional requirements within national general permits
1:20-1:30 PM	10:20 AM- 10:30 AM	Integrated Municipal Stormwater and Wastewater Planning*
1:30-1:55 PM	10:30 AM- 10:55 AM	Stormwater and Green Infrastructure
1:55 PM – 2:05 PM	10:55 AM – 11:05 AM	Water Permits Division Strategic Planning
2:05 PM – 2:10 PM	11:05 AM – 11:10 AM	Review New Action Items / Follow-up actions needed
2:10 PM – 2:15 PM	11:10 AM – 11:15 AM	Wrap Up and Closing Remarks
Beginning at 3:00 PM	Beginning at 12:00 PM	Refer to Full Meeting Agenda

Storm
water
Round
Table
with
Nancy
Stoner
9:30 –
11:30
AM
PDT

Region 10 Overview

2013-2015 Unit Plan identifies goals, priorities, and permits targeted for issuance.

Action Items

-Please also see Action Items Section following this agenda.

Current Status: Since 2005, Region 10 has been assigned a total of 60 Action Items, 36 of which have been completed. Of the 24 ongoing Action Items, five are overdue.

Kudos: Region 10 has few overdue Action Items, especially considering that it has taken on a relatively high number of Action Items over the last eight years. The Region completed seven Action Items in 2012 and has already completed two in 2013.

-Some items include reporting requirements which are counted as not completed; this prevents Region 10 from showing a higher percent completion rate.

-Relevance of some of the ongoing reporting measures that were established years ago.

Backlog/Priority Permits

Please also see the GPRA Section following this agenda.

Backlog

○ WQ-12a Non-Tribal Permits

- *FY12 Backlog Results: 79%* (see table below)
 - Region 10 as a whole was at 79% current and therefore did not meet the National Goal of 90% current or the Regional commitment of 80%
 - This is an increase from the prior two years, which were around 75% current
- *FY13 commitment: 78%*
 - R10 initially bid 75% but raised commitment to 78% after we asked them to bring it closer to FY12 result levels
 - States continue to have resource issues that slow down permit issuance
 - There is a settlement agreement with the Idaho Conservation League to reduce the backlog in Idaho by 2014
 - R10 is on track to meet the terms of the agreement
 - R10 met the issuance goals for FY11 and FY12
 - HQ is working on several permits in R10 to help with the backlog
- *FY13 draft mid-year results: 87%* (see table below)
 - Draft results indicate that Region 10 as a whole is at 87% current
 - May change through the QA/QC process happening now
 - Overall this is an increase over FY12 results
 - Increase in AK numbers is due mainly to an updated Suction Dredge Mining General Permit facility count

- Increase in OR numbers is due mainly to the inclusion of the CAFO General Permit which was left out last year
 - Decrease in ID numbers is due mainly to fewer NOIs being submitted under the reissued CAFO general permit
 - The difference in WA numbers from FY12 and FY13 may be due to better data following migration from PCS to ICIS.
- **WQ-12b Tribal Permits**
 - *FY12 Backlog Results: 60%* (see table below)
 - Region 10 as a whole was at 60% current for end of year FY12 reporting and therefore met the Regional commitment of 60% current but did not meet the National Goal of 90% current (see table below)
 - This is an increase from prior two years, which were at 55% and 52% current
 - Resource constraints and competing issuance priorities due to lawsuit settlements, in addition to nutrient and ESA consultation issues slow down permit issuance
 - *FY13 commitment: 60%*
 - Region 10 kept the same commitment level as FY12
 - *FY13 draft mid-year results: 64%* (see table below)
 - Draft results indicate that Region 10 as a whole is at 64% current
 - May change through the QA/QC process happening now
 - Overall this is an increase over FY12 results

Permits Greater than 10 years Expired

- 8 Non-Tribal Major permits
 - Several of the OR permits are expired and the facility did not submit an application for permit reissuance
- 1 Tribal Major permit
- 42 Non-Tribal Minor permits
 - One permit is expired and the facility did not submit an application for permit reissuance
 - 6 of these are Alaska Native villages
 - In the 1970's EPA issued a notice of a list of native villages in Alaska which EPA was going to treat similar to the 301(h) program
 - The facilities have been recently transferred to Alaska as part of the NPDES program approval but the authority used by EPA to exercise discretion in permitting native villages did not transfer to the state.
 - As a result, if the state issues an NPDES permit to one of these village POTW's they must issue a secondary treatment permit, which is not practicable in many situations for a host of reasons.
 - The Region is currently working with the state on a strategy to address these villages, but it will not likely result in any of these permits being addressed this year.
- 3 Tribal Minor permits
 - One permit is expired and the facility did not submit an application for permit reissuance
- 5 (soon to be 6) Non-Stormwater General permits

- These numbers are relatively high compared to other Regions

Priority Permits

FY12 Priority Permit Issuance

- Region 10 as a whole met commitments for WQ-19a (State-issued) and WQ-19b (EPA- and State-issued) Priority Permits
- This is the first time since 2009 that the Regions has met their commitment
- Only AK and EPA-issued AK permits did not meet issuance commitments
- Commitment numbers were lower than they were for FY11 for the Region as a whole, but about the same as previous years.

FY13 Priority Permit Commitments and Draft Mid-Year Results

- FY13 is the first year under the revised priority permit measure (see description in binder for details of what has changed)
- After discussions between the Region and HQ, 22 candidates in AK were removed (Alaska Native Village and 301(h) facilities) and a selection lower than 20% was accepted in OR
- Mid-year results show a low percentage issuance (see table below) but are currently being reviewed by Regions and States and numbers may change
- AK has several priority permits set to be issued in the next couple of months

Notes from Region 10 on Backlog and Priority Permits

-Overall, the Region 10 backlog is trending slowly upward. WA has one of the best percent current rates in the country but OR, after years of progress, is starting to show backlog increases. Alaska is making progress but is still experiencing growing pains.

-Region 10 is issuing permits in Idaho consistent with a settlement agreement with the Idaho Conservation League. We are meeting the terms and making progress on the backlog but well short of national targets.

-Progress is also being made on Tribal permits.

-Priority Permits will not be met in Region 10. With possibly the exception of WA, our other states are not in position to meet the new target and will not be in the foreseeable future.

State Program Oversight / PQRs / MOA Revision Project

-Update on MOA progress: AK and OR updated recently and used as national templates. WA is dated, and Region will work with WA to review MOA in 2013-2014.

- Region has invested more in real-time reviews in recent years: will summarize findings and goals.

-In 2012, WPD transitioned state program reviews through permit quality reviews (PQRs) to regions.

DRAFT 4.8.13

-At same time, began integrating enforcement state review framework (SRF) reviews with PQRs as part of IG response to Clean Water Act Action Plan.

-Transitional PQR pilots conducted in FY2012, regions leading PQRs in FY2013.

- Idaho & Alaska reviews to be conducted in July 2013.
 - o HQ conducting review of R10 permitting of Idaho program.
 - o HQ & contractor assistance being provided for Alaska review – Region 10's first full integrated PQR/SRF.
- Some regional challenges with writing integrated Washington report
 - o R10 permitting did very good job summarizing Washington review and contributing to integrated portion of report.
- Region 10's feedback on integrated PQR/SRF process

Oregon Department of Agriculture CAFO Issues

-Oregon Department of Environmental Quality (ODEQ) was authorized in 1973 to administer the NPDES program. At some point between 1988 and 2002, ODA became the Oregon administrative agency primarily responsible for the NPDES CAFO program. Permits are issued jointly by ODEQ and ODA. However, ODA is the only state agency doing any inspection or enforcement of NPDES permitted CAFO facilities in Oregon.

-Region 10 will forecast of issues for permit oversight.

-See fact sheet that follows this agenda.

Arctic Oil and Gas Exploration Permits

-Congratulations to Region 10 for issuing the Arctic oil and gas exploration general permit.

-This area is important and resource intensive work for Region 10, in part due to its high visibility. The work will also be ongoing since the permits are being challenged and Region 10 will have work to do to provide coverage under the permits over the term of the permit.

-Region is working on a new permit for geotechnical activities which were not covered by previous permits.

-Update on Cook Inlet Exploration permit process, now underway. Former permit expired last July. After many years of no new activity, operators have been starting to drill new wells again and there is increased activity.

-Shell has announced that they will not drill in the arctic this summer. The company is taking a break to address problems they encountered with equipment last summer and to regroup. Does the Region have any information about other lease holders' plans? Also, at some point there will be production in the Arctic. What are the Region's plans for issuing a permit/permits for production related discharges? These permits will require ESA and NEPA review.

Incorporating numeric nutrient limits into permits: scope of Region 10 state policies, particular industries/sources of concern

-See fact sheet prepared by R10 that follows this agenda.

-Region 10 will provide examples including incorporating a WLA from TMDL into permits, pre-TMDL permitting, developing limits based on downstream impairments, developing limits based on cross state boundary conditions, and developing WQBELs based on interpretation of narrative criteria.

Integrated Municipal Stormwater and Wastewater Planning

-New proposal in progress for Spokane, Washington: involves stormwater and CSO plans.

-Oregon proposal will be discussed at NACWA workshop on April 3, 2013 in Portland.

Stormwater and Green Infrastructure

-Discussion of recent changes in stormwater rulemaking

Elements Still Under Consideration

1. Performance Standard – On-site retention
 - a. Considering 85th – 95th percentile for new development; 80th – 90th for redevelopment
 - b. Considering applying:
 - i. Nation-wide
 - ii. Areas likely to experience development (e.g., HUC-10 watersheds surrounding regulated MS4s or MSAs surrounding MS4s)
2. MS4 Expansion – extend coverage of municipal programs and protection of minimum measures for MS4s greater than 10,000 population within a designated area. Options include:
 - a. All MS4s in same HUC-10 watershed as already regulated MS4
 - b. All MS4s in same HUC-12 watershed as already regulated MS4
 - c. Urban clusters - same population density as UAs (1,000 per sq mile) but less than 50,000 population
3. Reg Language streamlining and updating (e.g., removing past dates) that has no cost and/or does not place additional regulatory burden on municipalities

Elements Likely to Not be Included in Proposal

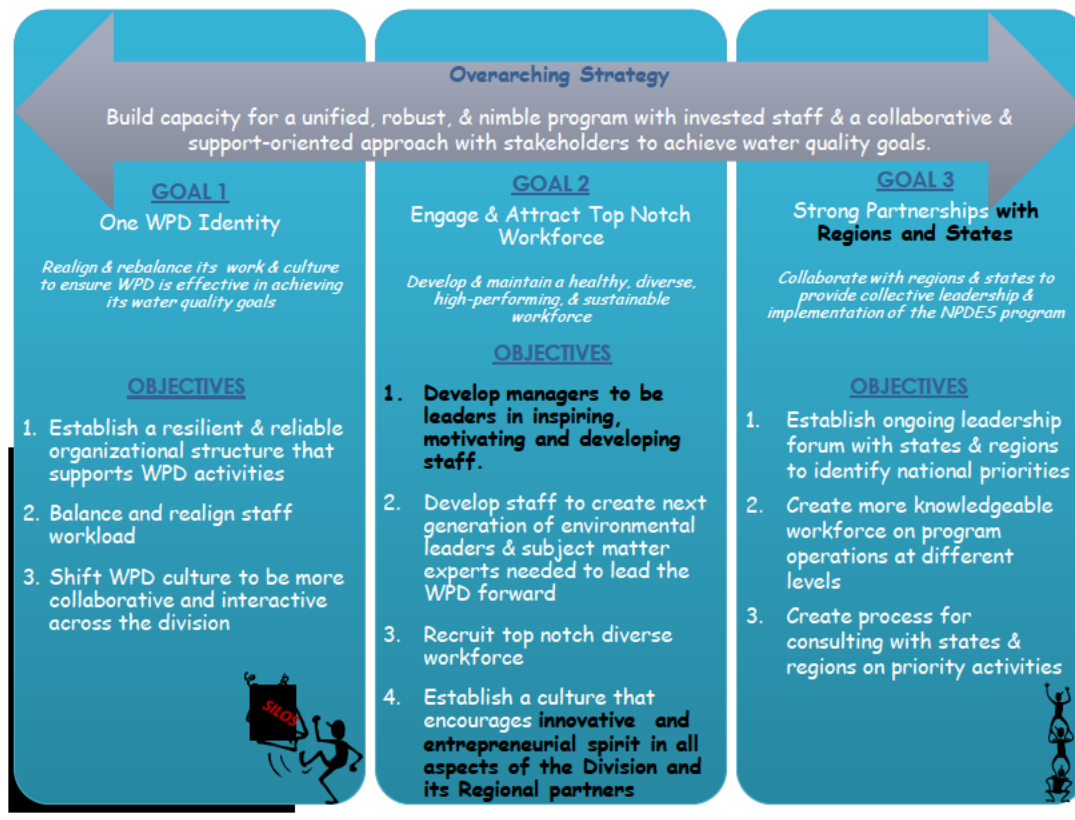
1. Retrofits
2. Transportation – including and tailoring MS4 program for principal arterials
3. Merging Phase I and Phase II
4. Municipal maintenance yards

1. SIC transition to NAICS – included in MSGP will see the impact and response

-Examples of incorporating green infrastructure in MS4 permits (R10)

-Challenges in implementing the MSGP, CGP, and MS4 permits (R10)

Strategic Planning



Goal 1: One WPD Identity

Realign & rebalance its work & culture to ensure WPD is effective in achieving its water quality goals

OBJECTIVES

1. Establish a resilient & reliable organizational structure that supports WPD activities
 2. Balance and realign staff workload
 3. Shift WPD culture to be more collaborative and interactive across the division
-

Goal 2: Engage & Attract Top Notch Workforce

Develop & maintain a healthy, diverse, high-performing, & sustainable workforce

OBJECTIVES

1. Develop managers to be leaders in inspiring, motivating and developing staff.
 2. Develop staff to create next generation of environmental leaders & subject matter experts needed to lead the WPD forward
 3. Recruit top notch diverse workforce
 4. Establish a culture that encourages innovative and entrepreneurial spirit in all aspects of the Division and its Regional partners
-

Goal 3: Strong Partnerships **with Regions & States**

Collaborate with regions & states to provide collective leadership & implementation of the NPDES program

OBJECTIVES

1. Establish ongoing leadership forum with regions & states to identify national priorities
 2. Create more knowledgeable workforce on program operations at different levels
 3. Create process for consulting with regions & states on priority activities
-

Strategic Planning State and Regional Leadership Forum

-Meets weekly to work on a structure for a Leadership Forum between EPA and the States, and how to solicit ideas from the States and Regions as to potential projects that would be suitable for the collaboration.

-Targeting the Shepardsstown Permit Writers Conference in late July as a time to announce this. We expect to engage all the regions prior to that via the national BC's (virtual) meeting.

Questions

How do we engage state and local partners within the NPDES program?

- Ways to interact with them better/more
- Ways to assess their priorities, challenges, and needs
- Ways to convey our priorities, challenges, or needs
- Ways to get important information from them
- Ways to coordinate communications about the program with stakeholders (including messaging)
- What's worked/not worked in the past?
- How do we select or structure Leadership Forum?

Background Information – Not on Agenda

R10 Alyeska Permit (WA) Update (as of 4/2/13)

Background

- ***Chronology – EPA permit for WA oil and gas appealed***
 - 10/30/12 – R10 issued permit
 - 11/29/12 – Permittee filed petition for review (petition) with EAB
 - 12/5/12 – EAB sent R10 letter re: response date for petition of 1/25/13
 - 12/12/12- R10 notified permittee of stay of permit conditions under petition
 - 12/20/12- R10 filed with EAB a motion for extension which was granted on 1/8/13
 - 3/22/13 – Due date for R10's response brief (post two unopposed motions by Region to extend response date, 2nd was filed 2/14/13)
 - 3/20/13 – Stay of proceedings till 8/20/13 filed by R10 ORC to reissue permit

Status

- ORC filed (3/20/13) an unopposed motion for a stay for 5 months to allow R10 time to reissue the permit consistent with the agreed-upon changes to the WET monitoring provisions. Two options re: chronic only monitoring frequency under discussion between R10 and permittee. Acute removed.

Next Steps

- If in the next 5 months, EPA has not reissued the permit limits per settlement agreement, petitioners could reopen challenge. If EPA reissues permit in time then presumably petitioners withdraw petition.